



**Phillips Lytle LLP**

**VIA ECF**

Hon. Jennifer C. Boal  
District of Massachusetts  
John Joseph Moakley Federal Courthouse  
1 Courthouse Way, 5th Floor  
Boston, MA 02210

August 7, 2013

Re: *In re New England Compounding Pharmacy, Inc. Products Liability Litigation;*  
Master Dkt.: 1:13-md-02419-FDS; MDL No. 2419

Dear Judge Boal:

I write in response to the letter from the PSC dated August 6, 2013 served by ECF (the "Letter Filing") (Document 377). We represent Rochester Brain and Spine Neurosurgery & Pain Management, LLC ("RBS") in this case. We appear *pro hac vice*.

The subpoena served upon RBS referred to in the Letter Filing has undergone great changes. The PSC unilaterally withdrew or qualified a number of demands made contrary to the District Court's directions and has withdrawn the demand to depose our client. Also, RBS successfully moved in District Court to quash the demand for its patient information and medical records, as conceded at page 3 of the Letter Filing.

We agree that a scheduling conference makes sense, but not on the short notice proposed by the PSC. We also believe that it would benefit the interested parties to have a meeting to confer about what remaining parts of the Subpoena the PSC wishes to pursue and the objections that the recipients have prior to a scheduling conference. We note that Attachment 1 to the Letter Filing (Document 377-1) is inaccurate in material respect to RBS's response, a matter on which we intend to confer with the PSC.

We intend in the meantime to caucus for these purposes with other interested parties as well.

Very truly yours,  
Phillips Lytle LLP  
By  
*/s Alan J. Bozer*  
Alan J. Bozer

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CERTIFICATE OF SERVICE

I, Alan J. Bozer, hereby certify that I caused a copy of the foregoing letter to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Dated: August 6, 2013

*/s Alan J. Bozer*  
Alan J. Bozer